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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,780	06/20/2003	Curtis L. Alverson	8266-1082	5934

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EXAMINER

VANAMAN, FRANK BENNETT

ART UNIT PAPER NUMBER

3618

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/600,780

Applicant(s)

ALVERSON ET AL.

Examiner

Frank Vanaman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 44-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-17 and 44-46 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/22/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **Election/Restrictions**

1. Applicant's election without traverse of Species I in the reply filed on April 13, 2005 is acknowledged.
2. Applicant has identified pending claims 1-17 and 44-46 as being directed to the elected species. As claims 18-43 are now canceled, an office action on claims 1-17 and 44-46 follows.

### **Specification**

3. The abstract of the disclosure is objected to because the phrase "[t]he present invention includes" is redundant, and should be deleted. Correction is required. See MPEP § 608.01(b).
4. The incorporation of essential material in the specification by reference to an unpublished U.S. application, foreign application or patent, or to a publication is improper. Applicant is required to amend the disclosure to include the material incorporated by reference, if the material is relied upon to overcome any objection, rejection, or other requirement imposed by the Office. The amendment must be accompanied by a statement executed by the applicant, or a practitioner representing the applicant, stating that the material being inserted is the material previously incorporated by reference and that the amendment contains no new matter. 37 CFR 1.57(f).

### **Claim Objections**

5. Claim 2 is objected to because of the following informalities: in claim 2, line 3, it appears as though "brake mechanism" should be - -braking mechanism- - for consistency with claim 1, line 7, for example. Appropriate correction is required.

### **Claim Rejections - 35 USC § 102**

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 6-9, 11-14, 16, and 44-46 are rejected under 35 U.S.C. 102(b) as being anticipated by Hall et al. (WO 98/33466, cited by applicant). Hall et al. teach a patient transport apparatus having a frame (10, 12, 14, 16) adapted to support a patient in a plurality of positioned including a seated and standing position; a plurality of wheels (20, 22) including at least one caster (22) connected to the frame; a seat (18) coupled to the frame via a seat support (19), which includes a telescopic connection (19 to 24 to 30) which allows sliding, the seat movable from a storage to use position (via pivot 18A), the storage position including a 'generally vertical' configuration (i.e., through rotation of 90 degrees about 18A); further including a braking mechanism (42, 44) including a brake body (40, 44, 46) and a brake member (42), coupled to the seat and made active when the seat is in a seating position, and a weight is applied; the braking mechanism being associated with at least one of the rear wheels (22); wherein the frame includes a top end with a handle (as regards claims 8, 9; proximate 26, 34) or an arm (as regards claims 13, 14) which may be gripped, and a bottom end (proximate 16) spaced therefrom; the apparatus including at least one further arm (32) which may be gripped, the apparatus further including a brake engagement and release mechanism with an actuator (48) which is pivotally coupled to the handle portion (figures 5a, 6) connected through a transmission member (e.g., 50, 52), and spring (56) for engaging and disengaging a brake (54) associated with at least one wheel (20).

The examiner notes that the reference to Hall et al. has been cited by applicant, and that amended claim 1, claims 6-9, 11-14 and 16, and newly added claims 44-46 have been rejected as currently pending, as anticipated by Hall et al. Many of the difficulties encountered in the prosecution of patent applications may be alleviated if each applicant includes, at the soonest possible time, claims varying from the broadest to which he or she believes he or she is entitled to the most detailed that he or she is willing to accept.

**Claim Rejections - 35 USC § 103**

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2, 3, 5, 10, 15, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hall et al. (applied above) in view of Norton et al. (US 6,264,007).

The reference to Hall et al. is discussed above and fails to teach, with respect to claims 2, 3, 5 and 10, the braking mechanism further including a cable coupled to the seat and a portion of the brake mechanism, and a brake lever coupled to an end of the cable. Norton et al. teach a braking system which includes a first portion responsive to the motion of a seat, and a second portion responsive to the actuation of a lever, wherein the mechanism includes a cable (64) with one end (proximate 30) coupled to a seat (through mechanism 50, to seat 18); and a second end (proximate 62) coupled to a braking lever (62), wherein motion of either or both of the seat and/or lever may control operation of a braking device (12 in general). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the weight responsive seat-operated braking device taught by Hall et al. with a cable and brake lever in addition, as taught by the dual operation of Hall et al., for the purpose of allowing a user or assistant to manually control the braking element, e.g., by locating the lever on one of the grippable arm portions, and through a connection of the cable element to move the brake member (Hall's element 42). Inasmuch as the brake member would be positioned inside the body 40, 44, 46, and the lever would be located remotely, outside the body, the body would be positioned between the brake member and the lever.

The reference to Hall et al. is discussed above and fails to teach, with respect to claims 15 and 17, the use of a cable and cable support in association with the braking mechanism (48, 50, 52, 54). Norton et al. teach the use of a cable element (64) in connecting a pivotally mounted lever (62) with a braking mechanism (12, in general). It

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would have been obvious to one of ordinary skill in the art at the time of the invention to replace the rigid linkages (e.g., Hall et al.'s element 50) with a cable as taught by Norton et al., connecting the lever to the brake and spring mechanism (e.g., Hall et al.'s elements 52, 54), for the purpose of lightening the apparatus, and additionally allowing the linkage to be routed along or inside the frame. As regards the provision of cable supports, such devices (rollers, pins, sleeves) are very well known in the mechanical arts for guiding control cables, and it would have been obvious to one of ordinary skill in the art at the time of the invention to employ cable supports in order to allow the cable to be guided in a low-friction manner, thus requiring less force on the part of the user to operate the mechanism.

#### **Allowable Subject Matter**

10. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. The examiner notes that the reference to Hall et al. does not teach the use of a torsion spring arranged as claimed, and while such a spring is certainly old and well known, the structure set forth in Hall et al. would not easily adapt to the use of such a spring as claimed.

#### **Conclusion**

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ames (US 2,437,778), McCabe (US 3,180,678), Brastow (US 4,461,471), Turbeville (US 5,020,560), Pfisterer (US 5,346,039), Dugas (US 5,984,334), Ritchie et al. (US 6,092,824), Dahlem (US 6,315,085), and Hall et al. (US 6,347,688) teach support devices and structures of pertinence.

13. Any inquiry specifically concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 571-272-6701.

Any inquiries of a general nature or relating to the status of this application may be made through either Private PAIR or Public PAIR. Status information for

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unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A response to this action should be mailed to:

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Or faxed to one of the following fax servers:

Regular Communications/Amendments: 703-872-9326  
After Final Amendments: 703-872-9327  
Customer Service Communications: 703-872-9325

**F. VANAMAN**  
**Primary Examiner**  
**Art Unit 3618**

  
6/23/05